

REMARKS

Reconsideration of this Application is respectfully requested.

Upon entry of the present amendment, claims 35-61 will be pending in the application. Applicants have canceled claims 1-34 and have added claims 35-61. The new claims do not introduce new matter, and their entry is respectfully requested.

In the Office Action of March 25, 2002, the Examiner set forth a number of grounds for rejection. These grounds are addressed individually and in detail below.

Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 1-17 and 24 stand rejected under 35 U.S.C. § 112, first paragraph for the reasons described on page 2 of the Office Action. Specifically, the Examiner alleges that the enablement of claims 7 and 24 requires the availability of ATCC AF-102 and ATCC-42202, and that the biological materials claimed have not been fully disclosed or the materials required to construct the claimed biological material have not been shown to be publicly known and freely available.

Claims 1-17 and 24 have been canceled. The newly added claims do not claim ATCC-AF-102 and ATCC-42202. Thus, this ground of rejection is now moot. Furthermore, the "ATCC" designation would appear to indicate availability of ATCC-AF-102 and ATCC-42202 from the American Type Culture Collection.

Claims 1-17 further stand rejected under 35 U.S.C. § 112, first paragraph, as having confusing steps. The Examiner indicates that the claims are confusing in part because SEQ ID NOS: 1-6 are nucleic acid sequences. The Examiner is reminded of the Sequence Listing separately attached at the end of the application as filed that is distinct from the text of the body of the specification at page 22-28.

Applicants have deleted claims 1-34 and added new claims 35-61 that more clearly recite the steps employed in method claims 35-43 and 47-61. Claims 35-43 and 53-57 are directed to traditional ELISA methods for diagnosing aspergillosis by detecting anti-A.fumigatus antibodies in body fluids. Claims 35-43 and 53-57 are described, for example, on pages 3-9 and 11 and Example 2 on pages 16-17 of the specification.

Claims 44-45 are directed to a diagnostic kit for aspergillosis, which is supported by the description on page 13 of the specification.

Claim 46 is directed to antibodies against the peptides of the present invention, and claim 47 is directed to a method for treating aspergillosis using the peptides of the present invention.

Claims 48-52 are directed to a modified ELISA method for the peptides which do not bind directly to a polystyrene ELISA plate. To determine the immunoreactivity of such peptides, the peptides are incubated with Af-specific antibodies. Then, the peptide bound

antibody complexes are removed by centrifugation and the amount of residual unbound antibodies are estimated by ELISA in wells coated with defined allergens/antigens. This method is described on page 10 of the specification.

Claims 58 and 59 are directed to a method for diagnosing aspergillosis based on histamine release from stimulated lymphocytes, which is supported by Example 5 and Table 5 of the specification.

Methods for production of antibodies (claim 60) and for proliferation of lymphocytes (claim 61) are described in Examples 3 and 4. A histamine release assay is described in Example 5 and results are presented in Table 5 on page 21.

Taken together, applicants respectfully submit that based the specification, at the time the application was filed, teaches one skilled in the art how to make and/or use the full scope of the claimed invention without undue experimentation.

It is believed that the grounds for this rejection have been obviated, and therefore the rejection under 35 U.S.C. § 112, First Paragraph, should be withdrawn.

**Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claims 1-34 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Applicants have cancelled claims 1-34. The newly added claims

35-68 clearly define the invention. Accordingly, it is believed that the grounds for this rejection have been obviated, and may properly be withdrawn.

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of the claims of the present application is respectfully requested.

CONCLUSION

All of the stated grounds for rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

Prompt and favorable consideration of this Response is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Ping Wang, M.D. (Reg. No. 48,328) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Attached hereto is a marked-up version of the changes made to the application by this Amendment.

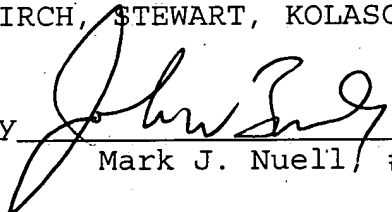
Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), Applicants hereby petition for an extension of three (3) months to September 25, 2002 in which to file a reply to the Office Action. The required fee of \$920.00 is enclosed herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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2761-0147P

Attachment: Version with Markings to Show Changes Made

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 1-34 have been cancelled.

Claims 35-61 have been added.